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Attorney for Defendant JETBLUE AIRWAYS CORPORATION

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DANIEL NASR,
on behalf of himself and all others
similarly situated,

Plaintiff.

V.

JETBLUE AIRWAYS CORPORATION

Defendant.

CIVIL ACTION NO.:

**DOCUMENT FILED
ELECTRONICALLY**

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, on this date, defendant, JetBlue Airways Corporation, (“Defendant” or “JetBlue”), by its undersigned counsel, has filed this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, in the office of the Clerk of the United States District Court for the Central District of California.

1 Defendant, by its undersigned attorneys, shows:

2 1. Daniel Nasr, (“Plaintiff”), by his counsel, brought a proposed class action in
3 his individual capacity against Defendant in the Superior Court of California, County of
4 Orange, and filed his complaint and jury demand on August 21, 2023, under Case No. 30-
5 2023-01343576-CU-AT-CXC. A true copy of Plaintiff’s Complaint is attached as Exhibit
6 “A”.

7 2. Defendant was served with process on September 1, 2023. A true copy of the
8 summons served on Defendant is attached as Exhibit “B”.

9 3. This Notice is filed with this Court within 30 days of Defendant’s receipt
10 “through service or otherwise, of a copy of the initial pleading setting forth the claim for
11 relief upon which such action or proceeding is based,” as provided by 28 U.S.C. § 1446(b).

12 4. There have been no other proceedings in this action.

13 5. This action may be removed to this Court by and through the Class Action
14 Fairness Act of 2005, (“CAFA”), 28 U.S.C. §§ 1332; 1453.

15 6. Pursuant to CAFA, this Court has original jurisdiction over this matter as it is
16 “a civil action in which the matter in controversy exceeds the sum or value of
17 \$5,000,000.00, exclusive of interest and costs, and is a class action in which ... any member
18 of a class of plaintiffs is a citizen of a State different from any defendant[,]” and the number
19 of members of all proposed plaintiff classes is at least one hundred. 28 U.S.C. §
20 1332(d)(2)(A); (d)(5).

1 7. As the Ninth Circuit has explained, a “removing defendant’s notice of
 2 removal ‘need not contain evidentiary submissions’ but only plausible allegations of
 3 jurisdictional fact.” *Arias v. Residence Inn by Marriott*, 936 F.3d 920, 922 (9th Cir. 2019)
 4 (quoting *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015)).
 5 Defendant now takes each CAFA element in turn.
 6

7 8. Amount in Controversy. “The amount in controversy is simply an estimate of
 8 the total amount in dispute, not a prospective assessment of defendant’s liability.” *Lewis v.*
 9 *Verizon Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010). Moreover, where plaintiff has
 10 not enumerated the putative class’s claimed damages, a defendant removing under CAFA
 11 “need only allege in its notice of removal that the amount in controversy requirement is
 12 met.” *Harris v. KM Indus., Inc.*, 980 F.3d 694, 699 (9th Cir. 2020).

13 9. Based on the allegations in the complaint, the aggregate amount in
 14 controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs, as
 15 required by 28 U.S.C. § 1332(d)(2). Though Plaintiff does not identify the aggregate
 16 damages the complaint seeks, a reasonable estimate of the amount in controversy can be
 17 ascertained through the relevant allegations.

18 10. Plaintiff purports to bring this action on behalf of “all United States citizens
 19 including Plaintiff who: (a) on or after March 1, 2014, (b) purchased a nonrefundable
 20 JetBlue ticket and subsequently cancelled that ticket, and (c) received a Credit including
 21 all fare, taxes, and fees in the form of a Credit.” Compl. ¶ 34. The “Class period” is further
 22 defined as “March 1, 2014, to the date of class certification.” *Id.*

1 11. The Complaint alleges JetBlue breached its contract of carriage with Plaintiff
2 and each Class Member by failing to “refund Plaintiff’s and Class members’ September 11
3 Security Fees to their original form of payment,” which Plaintiff claims violates 49 C.F.R.
4 § 1510.9(b), 49 C.F.R. § 1510.11(b), and 49 C.F.R. § 1510.13(c). Compl. ¶ 56. Plaintiff
5 further claims that this practice was “uniform during the class period.” Compl. ¶ 41.
6

7 12. The Complaint prays for damages in the form of “unrefunded September 11
8 Security Fees,” (“TSA fees”) on behalf of Plaintiff and Class members, and further requests
9 the costs of suit, including reasonable attorney’s fees. *See* Compl. ¶ 57.

10 13. According to the Complaint, Plaintiff believes that there are “thousands of
11 individuals throughout the United States who are potential Class Members in this action.”
12 Compl. ¶ 37.

13 14. From March 1, 2014, until the present date, on average, JetBlue remitted to
14 TSA more than \$400,000 per month in TSA fees associated with expired Travel Bank
15 credits, and JetBlue has returned in excess of \$5 million TSA fees associated with expired
16 Travel Bank credits during that period. *See* Declaration of Eric Berger (“Berger Dec.”), ¶
17 16, attached hereto as Exhibit “C”.

18 15. The total amount of “unrefunded September 11 Security Fees” is significantly
19 greater than the amount remitted by JetBlue to TSA for fees associated with expired Travel
20 Bank credits for the Class period. Therefore, the Complaint seeks damages well in excess
21 of \$5 million. Berger Dec., ¶ 17.

1 16. As such, the estimated amount in controversy is significantly greater than \$5
 2 million dollars, without taking into account attorney's fees, which the Complaint also prays
 3 for.
 4

5 17. Citizenship of the Parties. CAFA requires only minimal diversity, which is
 6 satisfied if "any member of a class of plaintiffs is a citizen of a State different from any
 7 defendant." 28 U.S.C. § 1332(d)(2)(A).
 8

9 18. According to the Complaint, Plaintiff is a citizen of California and Defendant
 10 JetBlue is a Delaware corporation with its principal place of business in New York. Compl.
 11 ¶¶ 6-7. Thus, complete diversity of citizenship exists between the parties and CAFA's
 12 minimal diversity requirement is readily satisfied. *See* 28 U.S.C. § 1332(d)(2)(A).
 13

14 19. Number of Class Members. CAFA requires that there be at least one hundred
 15 proposed class members. *See* 28 U.S.C. § 1332(d)(5)(b). CAFA defines "class members"
 16 as, "the persons (named or unnamed) who fall within the definition of the proposed or
 17 certified class in a class action." 28 U.S.C. § 1332(d)(1)(D).
 18

19 20. As stated, Plaintiff has pled that there are likely "thousands of individuals
 20 throughout the United States who are potential Class Members in this action." Compl. ¶
 21 37.
 22

23 21. This Court is not required to decline jurisdiction pursuant to 28 U.S.C. §
 24 1332(d)(4).
 25

26 22. Filing this Notice of Removal shall not be construed as a waiver of any
 27 defense that may be available to Defendant.
 28

PLEASE TAKE FURTHER NOTICE that Defendant, upon filing the Notice of Removal in the Office of the Clerk of the United States District Court for the Central District of California, has served a copy of this Notice of Removal on Plaintiff, and has also filed a copy of the Notice with the Clerk of the Superior Court of California, County of Orange, via Legal Connect, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. § 1446(d).

DATED: September 29, 2023

ECKERT SEAMANS CHERIN & MELLOTT, LLC

By: s/ Samuel P. Trumbull
Samuel P. Trumbull

Attorney for Defendant JETBLUE AIRWAYS
CORPORATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **Notice of Removal**, was mailed, first-class, postage prepaid, this 12th day of April 2023, to:

Michael Merriman
HILGERS GRABEN PLLC
655 West Broadway, Suite 900
San Diego, CA 92101
Attorney for Plaintiff

s/ Samuel P. Trumbull

Samuel P. Trumbull